

FILED
FEB 1 2005
CLERK
US DISTRICT COURT, SDNC
BY _____ DEP. CLK

UNITED STATES OF AMERICA)
)
 v.) UNITED STATES' UNOPPOSED MOTION FOR
) EXTENSION OF TIME TO SERVE ITS LIST OF
) WITNESSES TO OPPOSE DEFENDANT'S
 DAVID A. PASSARRO) PUBLIC AUTHORITY DEFENSE

1. Defendant has served upon the government, pursuant to Fed. R. Crim P. 12.3(a)(4)(B), a list of witnesses upon whom he intends to rely to establish a public authority defense. Defendant's notice states that, "because the government has not yet provided discovery sought by his motions to compel (D.E. 51, 53, 54, 70), the following list does not contain all witnesses he will rely upon at trial to establish a public authority defense, nor is the identifying information complete for each witness listed." Defendant's Response to Government's Request for Identification of Public Authority Defense Witnesses and Request for List of Government's Witnesses at 1. Defendant states further that he

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"intends to supplement this list once he has had the opportunity to review discovery produced by the government." Id. at 3.


2. Fed. R. Crim P. 12.3(a)(4)(C) provides for the government to serve upon defendant a list of the witnesses it will use to oppose a public authority defense, within seven days of receiving the defendant's list. Fed. R. Crim. P. 12.3(a)(5) provides that "[t]he court may, for good cause, allow a party additional time to comply with this rule."

3. Because Defendant has not yet served a complete list of his public authority defense witnesses, and it is uncertain when Defendant will do so, the government seeks to extend the time to serve its list of opposition witnesses until seven days after Defendant has filed his final list.

4. Defendant's counsel has advised Assistant United States Attorney James Candelmo that Defendant does not oppose this motion.

Respectfully submitted this 1st day of February, 2005.


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CERTIFICATE OF SERVICE

I hereby certify that on February 1, 2005, I caused a copy of the foregoing to be sent by messenger to:

Thomas P. McNamara
Federal Public Defender



Eric D. Goulian
Assistant United States Attorney